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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

HUAWEI TECHNOLOGIES CO., LTD., et al.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD., et al.,

Defendant.

CASE NO. 16-cv-02787-WHO

**SAMSUNG'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
PORTIONS OF SAMSUNG'S REPLY  
IN SUPPORT OF MOTION FOR  
JUDGMENT ON THE PLEADINGS  
REGARDING HUAWEI'S CAUSE OF  
ACTION FOR DECLARATORY  
JUDGMENT OF FRAND TERMS AND  
CONDITIONS FOR A CROSS-  
LICENSE**

SAMSUNG ELECTRONICS CO., LTD. &  
SAMSUNG ELECTRONICS AMERICA, INC.

Counterclaim-Plaintiffs,

v.

HUAWEI TECHNOLOGIES CO., LTD.,  
HUAWEI DEVICE USA, INC., HUAWEI  
TECHNOLOGIES USA, INC., & HISILICON  
TECHNOLOGIES CO., LTD.

Counterclaim-Defendants.

Pursuant to Civil L.R. 7-11 and 79-5, Defendants and Counterclaim-Plaintiffs Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., and Defendant Samsung Research America, Inc. (collectively “Samsung”) bring this administrative motion to file under seal limited portions of Samsung’s Reply in Support of Its Motion for Judgment on the Pleadings Regarding Huawei’s Cause of Action for Declaratory Judgment of FRAND Terms and Conditions for a Cross-License (“Reply”). Samsung certifies that it has reviewed and complied with Judge Orrick’s Standing Order on Administrative Motions to File Under Seal, as well as Civil L.R. 79-5.

Samsung requests an order granting its motion to file under seal the materials in the following table:

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality	Basis for Sealing
Reply	Green highlighted portions on lines: 1:8 2:12 5:9, 11-13, 25	Huawei, Samsung	Declaration of Mark Gray in Support of the Administrative Motion to File Under Seal (“Gray Decl.”) ¶ 4
Reply	Yellow highlighted portions on lines: 6:3-5	Huawei	Gray Decl. ¶ 8

For the convenience of the Court, material in Samsung’s Reply over which Huawei maintains a claim of confidentiality is highlighted in yellow and material over which both Huawei and Samsung maintain a claim of confidentiality is highlighted in green.

Dispositive motions and related materials may be sealed in the 9th Circuit upon a showing that there are “compelling reasons” to seal the information. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006). A party has “compelling reasons” to seal information in a filing when disclosure of that information would “release trade secrets,” *Kamakana*, 447 F.3d at 1179, or when the material would disclose “sources of business information that might harm a litigant’s competitive standing.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978). In this District, Civil L.R. 79-5(b) requires that the party moving to seal “establish[] that the document, or portions

1 thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law”  
 2 and that the corresponding motion to seal “be narrowly tailored to seek sealing only of sealable  
 3 material.”

4 Samsung seeks to seal two categories of information: (1) information about the parties’  
 5 negotiations positions, correspondence, and strategy, which this Court has already held are sealable  
 6 under the “compelling reasons” standard, *see* Dkt. 270 at 3 (granting sealing because “information  
 7 regarding [parties’] license negotiations” discloses “sources of business information that might harm a  
 8 litigant’s competitive standing”), and (2) material that Huawei has designated Highly Confidential –  
 9 Attorneys’ Eyes Only pursuant to the protective order. Public disclosure of the first category of  
 10 information would harm Samsung’s competitive standing by giving asymmetrical information about  
 11 Samsung’s licensing strategies to other business entities. *See* Gray Decl. ¶¶ 4-5 Huawei may also  
 12 claim confidentiality over its negotiating strategies and positions for similar reasons. Samsung  
 13 expects that Huawei will file declarations supporting sealing of its negotiating positions and  
 14 information, as well as discovery it has asserted is highly confidential. Samsung therefore respectfully  
 15 requests that the Court order sealed the materials identified above.

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 17 DATED: June 29, 2018, 2018

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 20 By /s/ Victoria F. Maroulis

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